

# SENATE MOTION

**MR. PRESIDENT:**

**I move** that Senate Bill 1377 be amended to read as follows:

- 1           Page 1, after the enacting clause and before line 1, begin a new
- 2           paragraph and insert the following:
- 3           "SECTION 1. IC 34-13-3-3 IS AMENDED TO READ AS
- 4           FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. "A governmental
- 5           entity or an employee acting within the scope of the employee's
- 6           employment is not liable if a loss results from:
- 7           (1) the natural condition of unimproved property;
- 8           (2) the condition of a reservoir, dam, canal, conduit, drain, or
- 9           similar structure when used by a person for a purpose that
- 10          is not foreseeable;
- 11          (3) the temporary condition of a public thoroughfare that
- 12          results from weather;
- 13          (4) the condition of an unpaved road, trail, or footpath, the
- 14          purpose of which is to provide access to a recreation or scenic
- 15          area;
- 16          (5) the initiation of a judicial or an administrative proceeding;
- 17          (6) the performance of a discretionary function; however, the
- 18          provision of medical or optical care as provided in IC
- 19          34-6-2-38 shall be considered as a ministerial act;
- 20          (7) the adoption and enforcement of or failure to adopt or
- 21          enforce a law (including rules and regulations), unless the
- 22          act of enforcement constitutes false arrest or false
- 23          imprisonment;
- 24          (8) an act or omission performed in good faith and without
- 25          malice under the apparent authority of a statute which is
- 26          invalid if the employee would not have been
- 27          liable had the statute been valid;
- 28          (9) the act or omission of anyone other than the governmental
- 29          entity or the governmental entity's employee;
- 30          (10) the issuance, denial, suspension, or revocation of, or
- 31          failure or refusal to issue, deny, suspend, or revoke, any
- 32          permit, license, certificate, approval, order, or similar

1 authorization, where the authority is discretionary under the  
2 law;  
3 (11) failure to make an inspection, or making an inadequate or  
4 negligent inspection, of any property, other than the  
5 property of a governmental entity, to determine  
6 whether the property complied with or violates any law or  
7 contains a hazard to health or safety;  
8 (12) entry upon any property where the entry is expressly or  
9 impliedly authorized by law;  
10 (13) misrepresentation if unintentional;  
11 (14) theft by another person of money in the employee's  
12 official custody, unless the loss was sustained because of the  
13 employee's own negligent or wrongful act or  
14 omission;  
15 (15) injury to the property of a person under the jurisdiction  
16 and control of the department of correction if the person has  
17 not exhausted the administrative  
18 remedies and procedures provided by section 7 of this chapter;  
19 (16) injury to the person or property of a person under  
20 supervision of a governmental entity and who is:  
21 (A) on probation; or  
22 (B) assigned to an alcohol and drug services program under IC  
23 12-23, a minimum security release program under IC  
24 11-10-8, or a community corrections program  
25 under IC 11-12;  
26 (17) design of a highway (as defined in IC 9-13-2-73) if the  
27 claimed loss occurs at least twenty (20) years after the public  
28 highway was designed or substantially  
29 redesigned; except that this subdivision shall not be construed  
30 to relieve a responsible governmental entity from the  
31 continuing duty to provide and maintain  
32 public highways in a reasonably safe condition;  
33 (18) development, adoption, ~~or implementation operation;~~  
34 ~~maintenance, or use~~ of an enhanced emergency  
35 communication system, **unless the loss was sustained because**  
36 **of an intentional, a reckless, or a grossly negligent act or**  
37 **omission related to the operation, maintenance, or use of the**  
38 **enhanced emergency communication system,**  
39 **including the operation, maintenance, or use of a 911**  
40 **e m e r g e n c y t e l e p h o n e s y s t e m**  
41 **or an enhanced 911 emergency telephone system;** or  
42 (19) injury to a student or a student's property by an employee  
43 of a school corporation if the employee is acting reasonably  
44 under a discipline policy adopted  
45 under IC 20-8.1-5.1-7(b)".

1           Page 1, line 1, delete "SECTION 1." and insert "SECTION 2."

2           Page 2, after line 9, begin a new paragraph and insert the  
3 following:

4           "SECTION 3. [EFFECTIVE JULY 1, 1999] **IC 34-13-3-3, as**  
5 **amended by this act, applies only to a cause of action that accrues**  
6 **after June 30, 1999. The amendment of IC 34-13-3-3 by this act**  
7 **shall not be construed in any manner to affect the interpretation of**  
8 **IC 34-13-3-3 or IC 34-4-16.5-3 (repealed) as those statutes existed**  
9 **before July 1, 1999".**

(Reference to EHB 1377 printed March 12, 1999.)

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Senator ANTICH